IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

OP.No. 25835 of 2001(A)
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PETITIONER:
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MATHEW V MATHEW, AGED 55, S/O. MATHAI,
VEENAMALIL HOUSE, KEEZHILLAM.

BY ADV. SRI.ALEXANDER JOSEPH

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY SECRETARY TO GOVT.,
DEPARTMENT OF INDUSTRIES, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM.

2. GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE,
ERNAKULAM.

3. DISTRICT COLLECTOR, ERNAKULAM.

4. DEPUTY TAHSILDAR (RR), ALUVA.

5. VILLAGE OFFICER, RAYAMANGALAM VILLAGE, PERUMBAVOOR.

6. ELDHO.P. MATHEW, SON OF MATHAI, AGED ABOUT 29, PULIKKAL HOUSE,.
KEEZHILLAM P.O., PERUMBAVOOR.

7. P.V. JOSE, SON OF VARGHESE, AGED ABOUT 34, PULIKKAL HOUSE,
KEEZHILLAM P.O., PERUMBAVOOR.

BY ADV. SRI.C.T.JOSEPH
SRI.K.R.GANESH
SRI.C.JAYACHANDRAN
SRI.N.SAJU THOMAS
SRI.JOE POLLAYIL
R1 TO R5 BY GOVERNMENT PLEADER SMT. SMITHA SUKUMARAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 03/12/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ORDER ON CMP 42013 OF 2001 IN OP 25835 OF 2001

DISMISSED

3.12.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE NOTICE DATED 23.4.2001 OF THE FOURTH RESPONDENT.

EXT.P2 TRUE COPY OF THE LETTER OF THE DISTRICT COLLECTOR DATED 7.7.2001 T0 THE FOURTH RESPONDENT

EXT.P3 TRUE COPY OF THE DEMAND NOTICE DATED 24.7.2001 OF THE FOURTH RESPONDENT.

EXT.P4 TRUE COPY OF THE LETTER DATED 13.8.2001 OF THE PETITIONER TO THE THIRD RESPONDENT.

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N. RAMACHANDRAN NAIR, J.

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O.P. NO. 25835 OF 2001

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Dated this the 3rd day of December, 2007

JUDGMENT

Petitioner is challenging recovery proceedings initiated for recovery of margin money availed by a firm of which petitioner was a partner. Being a partner, petitioner is liable and can be proceeded against. However, since petitioner has made two other partners as respondent and in view of payment of Rs. 10,000/- by the petitioner, I feel on equitable grounds, direction should be issued to respondents 4 and 5 to proceed for recovery against other partners, namely, respondents 6 and 7 if the petitioner produces copy of partnership deed and identifies the property of respondents 6 and 7 to respondents 4 and 5. If recovery is not made from respondents 6 and 7 for want of assets, recovery can be continued against the petitioner. Moreover if respondents 6 and 7 produce any document before the fourth respondent showing that petitioner has undertaken to clear the full liability, then recovery can be continued only against the petitioner and not against respondents 6 and 7.

O.P. is disposed of as above.

(C.N. RAMACHANDRAN NAIR)
Judge